

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision petition filed by Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o.Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 26/2004, dated. 22.01.2005 in respect of land an extent of Acs.10.00 of land in Sy.No.60 situated at Kotha Kindra (V) Rajavommangi (M), Alluri Sitharamaraju District-Dismissed-Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No. 66

Dated:30.10.2023
Read the following:

1. Revision Petition filed by Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o.Seethanagaram Village, Rajavommangi Mandal, Alluri Sitharamaraju District before the Hon'ble Dy.CM(TW), dated. 05.05.2005.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, RC No.1307/LTR-2/2006-1, dated:17.06.2006 in C.M.A. No. 26/2004.

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ORDER :

In the reference 1st read above, Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o. Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 26/2004, dated.22.01.2005 in respect of land an extent of Acs.10.00 of land in Sy.No.60 situated at Kotha Kindra (V), Rajavommangi (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2. Brief history of the subject case:

a) Sri Makada Kondamma, W/o. Sanyasi Rao, R/o. Koyyuru Mandal (LTRP No.66/2003) and Eka Subbayya, Nellimetla Village, Rajavommangi Mandal, Alluri Sitharamaraju District (LTRP No.67/2003) has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled Land to Government after

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ejecting the Non Tribal Respondents, i.e. Sri Kudukula Nukaraju, S/o. Sambamurthy (LTRP No.66/2003) and Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o. Seethanagaram Village, Rajavommangi Mandal, Alluri Sitharamaraju District (LTRP No.67/2003).

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry the Special Deputy Tahasildar (TW) Rajavommangi reported that the Petition Scheduled land in both cases are classified as "Gayalu". The adangal extract confirm the respondents as objectionable encroachers. The endorsement of village Secretary dated.09.12.2003 that the respondents are cultivating for last 40 years is not supported by any evidence. The tax receipts dated.07.09.1963, 17.08.1964 are paid for patta 26, 28, 79 which show that they are paid for patta lands but not for Petition Scheduled Gayalu land. Further the penalty under 2c account be served for the encroachment and regular tax will not be collected. Hence it is concluded that the respondents are in possession of Petition Scheduled land much later to 1970.

c) Hence, The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection Viz Rajana Narayana Murthy, of Seetharamapuram from Petition Scheduled Land Ac. 10.00 in Sy. No. 60 and to restore the same to Government for onward assignment for eligible Tribals vide in LTRP No.67 of 2003, dated: 03.12.2003. The Mandal Revenue Officer, Devipatnam is directed to implement the order and report.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o.Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District has filed an appeal against the orders LTRP No.67 of 2003, dated: 03.12.2003 before the Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o. Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District with regard to the scheduled property covered by measuring Acs. 10.00 in Survey No: 60 situated at Kotha Kindra (V), Rajavommangi (M), Alluri Sitharamaraju District erstwhile East Godavari District and CMA No. 26/2004, dated.22.01.2005, uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No.67 of 2003, dated: 03.12.2003.

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3. Aggrieved by the above orders, the Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o. Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District has filed a Revision petition dated.10.10.2005, before the Government of A.P., against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 26/2004, dated.22.01.2005 in respect of land an extent measuring Acs. 10.00 in Survey No: 60 situated at Kotha Kindra (V), Rajavommangi (M), Alluri Sitharamaraju District with a request to set aside the orders of CMA and to pass such other order or orders as this Hon'ble Government may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 17.06.2006 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No. 26/2004, dated.22.01.2005 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 26.08.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed by Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o. Seethanagaram, Rajavommangi Village and Mandal, East Godavari District, presently in Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District with regard to lands admeasuring Ac. 10.00 in Survey No:60 situated at Kotha Kindra (V), Rajavomnmangi (M), Alluri Sitharamaraju District, passed in CMA No. 26/2004, dated: 22-01-2005, dismissing the appeal, while upholding the orders of the Special Deputy Collector, (TW), Rampachodavaram, Alluri Sitharamaraju District passed in LTRP No.67 of 2003, dated: 03.12.2003, and ordering to restore the Petition Schedule land to Government for onward assignment to eligible tribals.

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(II) The matter came for hearing finally before the Revision Authority on 26.08.2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present. Heard both sides. The following order is made after perusal of the material documents available on the record.

(III) During the enquiry the Revision Petitioner died and his legal heirs namely Rajana Nukalamma and (3) others were brought on record which was allowed by the Revision Authority on 15-07-2023. The main contention of the Revision Petitioners is that there is no prohibited land transfer involved in the case, and the intention of the Regulation is that not to take away the lands being enjoyed by the petitioners, and the Revision Petitioners started cultivating the lands even before the introduction of Section 3(1)(a) of Regulation 1 of 1959 as amended by 1 of 70 and has been paying land revenue to the Government.

(IV) The case was originally filed by Sri Eka Subbayya of Nellimetla (V) of Rajavommangi (M), Alluri Sitharamaraju District by the Special Deputy Collector, Rampachodacaram, Alluri Sitharamaraju District U/s 3(1) of APSALTR 1/59 as amended by 1/70 against the original Revision Petitioner seeking the restoration of the land to him. After an enquiry the Special Deputy Collector, Tribal Welfare, Rampachodavaram passed an ejection order against the Non-Tribal respondent Viz., Rajana Narayana Murthy, from Petition Schedule Land in Sy. No. 60, Ac. 10.00 cts and to restore the same to Government for onward assignment for eligible Tribals vide in LTRP No.67 of 2003, dated:03.12.2003.

(V) Aggrieved by the orders of Special Deputy Collector, Tribal Welfare Rampachodavaram, Alluri Sitharamaraju District Sri Rajana Narayana Murthy filed an appeal before the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District. The Appeal in CMA. No. 26/2004 was dismissed on 22-01-2005 by the Additional Agent to Government while upholding the order of the Special Deputy Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District. The Additional Agent to Government countered the contention of the Revision Petitioner stating that he had failed to file the valid title deed to claim the ownership and possession of the Petition Scheduled land and the claim against the provisions of the Regulation under Section 3(1) of the Regulation 1 of 1959 as amended by Regulation 1 of 1970.

(VI) The present Revision Petition is against the impugned order passed by the Additional Agent to Government. There is a direction from the High Court of AP in WP No. 22707/05, for disposal of the Revision Petition.

(VII) In view of the pleadings of the parties in the case, the following issue is framed. "Whether the non-tribal is entitled to hold the

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Government land situated in the Scheduled Area and whether such occupation is hit by the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70"?

(VIII) The Clause (b) of Section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favour of non tribals is prohibited under the Land Transfer Regulations 1 of 70.

(IX) The Revision Petitioner failed to adduce any evidence to show that the lands in question are Ryotwari lands and has a valid title over the land to make a claim in his favour. Both the lower courts observed that the land in question is Government land. This fact was not disputed by the nontribal Claimants. More over there is no evidence to show that the nontribal claimant has been in continuous possession and enjoyment of the scheduled lands and his possession is not in violation of Land Transfer Regulations 1 of 70.

(X) As per the ruling of the Hon'ble High Court of AP (2007(6) ALD 292) the land classified as Gayalu or Government land, the non-tribal person who is in possession of such land must be said to be "dealing" with such immovable property, which falls within the scope of "transfer" as defined under Section 2(g) of the Land Transfer Regulation 1 of 59 as amended by 1 of 70. Therefore the possession of the Government lands in question by the Revision Petitioners is in clear violation of the Land Transfer Regulations.

(XI) The Hon'ble High Court of Andhra Pradesh further held that, "No non-tribal can seek assignment or entitlement over the Government lands and its related orders issued by the Government of Andhra Pradesh from time to time permitting the non-tribal land less poor to continue in occupation of the Government land in Schedule Areas were struck down by the Hon'ble High Court of Andhra Pradesh in P. Gangamma Vs Vasudha Misra and another case. (1998(2) ALD 35).

(XII) The Hon'ble Supreme Court of India Samata Vs Government of Andhra Pradesh (AIR SC-1997) held that, " the word "person" in section 3(1) would include both natural person as well as Juristic person and Constitutional Government and as such the transfer of land by juristic person or allotment of land by state to Non-Tribal stands prohibited". Therefore the State is prohibited to allow the non-tribal to continue in the occupation of the Government lands.

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(XIII) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that " the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XIV) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is hereby dismissed. Therefore the impugned order dated: 22.01.2005, passed by the Additional Agent to Government in CMA No. 26/2004 is hereby upheld with a modification that if the petitioner in LTRP No.67 of 2003 is also tribal and eligible he may also be considered for the assignment of Revision Petition lands along with other eligible tribals. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Ofcer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 26/2004, dated.22.01.2005 are hereby upheld and the Revision petition filed by Sri Rajana Narayana Murthy, S/o. Appalanaidu, R/o.Seethanagaram, Rajavommangi Village and Mandal, Alluri Sitharamaraju District, against with regard to land an extent of Acs.10.00 of land in Sy.No.60 situated at Kotha Kindra (V) Rajavommangi (M), Alluri Sitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter accordingly, and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

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To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.

The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)

The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288

The Tahsildar, Rajavommangi Mandal, Alluri Sitharamaraju District.

Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.

Sri Rajana Narayana Murthy, S/o. Appalanaidu,
R/o.Seethanagaram Rajavommangi (Village & Mandal)
Alluri Sitharamaraju District.

Sri Eka Subbayya, R/o. Nellimetla Village,
Rajavommangi Mandal,
Alluri Sitharamaraju District.

Copy to:

The P.S. to Hon'ble Dy. Chief Minister (TW)

The P.S. to Secretary (TW).

The Commissioner of Printing, Stationery (for Publication in the AP
Gazette), Vijayawada.

✓ SF/SC.

// FORWARDED : : BY ORDER //

SECTION OFFICER